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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,517	02/24/2005	Jose Gonzalez Miguez		1164

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SPAIN

EXAMINER

VALENTI, ANDREA M

ART UNIT PAPER NUMBER

3643

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/525,517

Applicant(s)

GONZALEZ MIGUEZ, JOSE

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 1-10 are objected to because of the following informalities:

Claim 1-10, "characterised in" should be --comprising--

Appropriate correction is required.

Drawings

The drawings are objected to because each modification or embodiment should have its own Figure. Fig.2, Fig. 3, and Fig. 7 appear to contain multiple embodiments within on Figure. Each of these embodiments should have their own Figure number and should be properly explained in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

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informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-10 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. **The claim(s) must be in one sentence form only.** Note the format of the claims in the patent(s) cited.

Claim 1 recites the limitation "the lighting element" in line 2 and "the ends" in line 2-3; some further examples of lack of antecedent bases found in claim 1 include "the holes"; "the whole assembly"; "the assemblies"; "the closer or ring shaped supports".

Claim 2, "the top" line 5 and "the roots" line 8.

Claim 9, "the peripheral lateral rim" line 7.

There is insufficient antecedent basis for this limitation in the claim.

Claims 1-10 are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent FR2659192 A1 to Felix et al in view of German Patent DE 4025651 to Meulen.

Regarding Claim 1, Felix teaches a modular plant pot with water evacuation system (Felix Fig. 1 #5 and Fig. 3 #15) and support bracket (Felix Fig. 4) of lengthwise modules (Felix Fig. 1 #2 ad 3) with or without reinforcement.

Felix is silent on angular modules and tightening screws through holes in the sides or sealing. However, Meulen teaches a modular plant pot with angular modules and screw through holes (Meulen Fig. 8, 2, 11 and 13). It would have been obvious to one of ordinary skill in the art to modify the teachings of Felix with the teachings of Meulen at the time of the invention for the known advantage of making various configurations for an aesthetic design or to conform to particular space constraints and for additional fastening means to prevent undesired displacement of the sections of the modules.

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Regarding Claims 9 and 10, Felix as modified teaches closure side, with double wall rims that widens at the lower part (Felix Fig.3); the peripheral lateral rim features a number of holes (Meulen Fig. 10 #8, 9, 52, 51, 50).

Claims 2, 3, 4, 5, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent FR2659192 A1 to Felix et al in view of German Patent DE 4025651 to Meulen as applied to claim 1 above, and further in view of Japanese Patent JP 03191161 A to Shimizu.

Regarding Claim 2, Felix as modified is silent on the lengthwise modules have attached in their lower inferior part a double lateral wall that has a preferred height of 1/3 of the lateral height of the module, a series of sequential holes at the top of the double wall where the excess water is evacuated and water is evacuated to the exterior by a series of holes that the modules have in its inferior surface. However, Shimizu teaches a double wall in the lower inferior part of the lateral wall approximately 1/3 of the height of the module wall (Shimizu Fig.2 and Fig. 1 triangular cross section and rectangular cross section in lower portion of the module that runs the length of the module). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Felix with the teachings of Shimizu at the time of the invention to strengthen the lower portion of the module and to control the evacuation flow rate and storage area volume. Felix as modified teaches a series of sequential holes at the top of the double wall (Felix Fig.1 #8 and 6a and Shimizu Fig. 1).

Regarding Claim 3, Felix as modified inherently teaches the interior double wall the double wall does not reach the ends to allow joining since Felix teaches that the ends of the lengthwise sections must be a single wall to fit into the support and end closure (Felix Fig. 4 and 3).

Regarding Claim 4, Felix as modified teaches the lengthwise modules with or without reinforcement include lengthwise shoulders on their lower, exterior parts where they rest on the ground which do not reach the ends of the modules (Meulen Fig. 9 #34). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Felix with the teachings of Meulen at the time of the invention for ergonomic ease of reach by the gardener.

Regarding Claim 5, Felix as modified teaches the angular module preferably comprises angles between 90 and 135 degrees (Meulen Fig. 8, 11, and 13); the modules are double walled and include a number of holes at the upper area; the angular module have holes on the support surface (Meulen Fig. 8) and do not have shoulders; one angular module features a laminate form at one end and along its exterior perimeter, the other end has a double wall along its perimeter (Felix teaches that it is known insert a singular wall in the slit of a double wall Fig. 3 #13 and Fig. 4; Fig. 4 receives #2 and 3; merely reversing the parts does not present a patentably distinct limitation [*In re Gazda*, 219 F.2d 449, 452, 104 USPQ 400, 402 (CCPA 1955)]; the exterior peripheral endings include a number of holes (Meulen teaches holes at the support joints #51 and 24).

Regarding Claims 9 and 10, Felix as modified teaches closure side, with double wall rims that widens at the lower part (Felix Fig.3); the peripheral lateral rim features a number of holes (Meulen Fig. 10 #8, 9, 52, 51, 50).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent FR2659192 A1 to Felix et al in view of German Patent DE 4025651 to Meulen as applied to claim 1 above, and further in view of U.S. Patent Pub. No. US 2003/0084610 to Yawney.

Regarding Claim 6, Felix as modified teaches the support bracket is double walled with a slot and a lower inner part with a wider double wall, lateral reinforcement (Felix Fig. 4), complemented by an upside-down "U"-shaped (Felix #9 and 10), but is silent on lateral holes. However, Yawney teaches ring shaped support at the upper part of a module (Yawney Fig. 4 #7 and Fig. 3 #15, 18). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Felix at the time of the invention for the advantage of incorporating lights into the module to promote plant development as taught by Yawney.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent FR2659192 A1 to Felix et al in view of German Patent DE 4025651 to Meulen, Japanese Patent JP 03191161 A to Shimizu, and U.S. Patent Pub. No. US 2003/0084610 to Yawney as applied to claim 1, 2, 3, and 6 above, and further in view of U.S. Patent No. 4,954,015 to McGowan.

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Regarding Claims 7 and 8, Felix as modified teaches the support bracket made up of two "U" shaped parts (Felix Fig. 4), with lateral faces ending in a slightly folded form which attaches to the ends of the modules; and an upside-down-"U" -shaped part coupled to the support with slots (Yawney #7 and 18), but is silent on a rubber surface. However, McGrowan teaches a rubber surface at a support for a modular receptacle (McGrowan Fig. 1 #8). It would have been obvious to one of ordinary skill in the art to further modify the teachings of Felix with the teachings of McGrowan at the time of the invention for a tight seal as taught by McGrowan.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

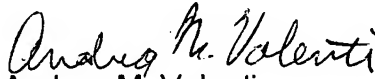
French Patent FR 2608891; U.S. Patent No. 4,120,119; U.S. Patent No. 1,690,910; U.S. Patent No. 5,852,895;; U.S. Patent No. 4,190,988; U.S. Patent No. 4,257,716; U.S. Patent No. 6,273,640; European Patent EP 1329152; U.S. Patent No. 6,523,791; U.S. Patent No. 5,038,528; French Patent FR 2289110A; U.S. Patent No. 4,420,902; U.S. Patent No. 4,828,894; U.S. Patent No. 2,072,395; U.S. Patent No. 923,921; U.S. Patent No. 6,837,002; U.S. Patent No. 6,209,260; Japanese Patent JP 01-247640.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Andrea M. Valenti
Primary Examiner
Art Unit 3643

02 November 2006